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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131206999-4466-02]

RIN 0648-BD83

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Coastal Migratory Pelagic Resources in the Gulf of Mexico and
Atlantic Region; Amendment 20A

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 20A
to the Fishery Management Plan for the Coastal Migratory Pelagic
Resources (CMP) in the Gulf of Mexico and Atlantic Region (FMP)
(Amendment 20A), as prepared and submitted by the Gulf of Mexico
(Gulf Council) and South Atlantic Fishery Management Council
(South Atlantic Council) (collectively, the Councils). This
final rule restricts sales of king and Spanish mackerel caught
under the bag limit (those fish harvested by vessels that do not
have a valid commercial vessel permit for king or Spanish
mackerel and are subject to the bag limits) and removes the
income qualification requirements for king and Spanish mackerel

commercial vessel permits. The purpose of this final rule is to obtain more accurate landings data while ensuring the CMP fishery resources are utilized efficiently.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], except for the amendments to § 622.386 (d) and (e), which are effective August 7, 2014.

ADDRESSES: Electronic copies of the documents supporting this final rule, which include an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/cmp/index.html.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and the Office of Management and Budget (OMB), by e-mail at OIRA_Submission@omb.eop.gov, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727-824-5305, or e-mail: Susan.Gerhart@noaa.gov.

SUPPLEMENTARY INFORMATION: The CMP fishery in the Gulf of Mexico (Gulf) and the Atlantic is managed under the FMP. The FMP was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On March 3, 2014, NMFS published a notice of availability for Amendment 20A and requested public comment (79 FR 11748). On March 19, 2014, NMFS published a proposed rule for Amendment 20A and requested public comment (79 FR 15284). NMFS approved Amendment 20A on May 30, 2014. The proposed rule and Amendment 20A outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

Management Measures Contained in this Final Rule

For the Gulf region, this final rule prohibits the sale of bag-limit-caught king and Spanish mackerel, except in two limited circumstances. First, bag-limit-caught king and Spanish mackerel may be sold when harvested during a for-hire trip on a vessel with both a Gulf Charter Vessel/Headboat Coastal Migratory Pelagic Fish Permit and either a King Mackerel Commercial Permit or a Spanish Mackerel Commercial Permit, as appropriate to the species harvested or possessed (dually

permitted vessel). The purpose of this exception is to preserve a historic practice that is important to Gulf charter and headboat businesses on the west coast of Florida. Florida is the only Gulf state that currently allows the sale of recreationally-caught fish and Florida requires that fishermen have the appropriate permits, including a Federal commercial vessel permit, to sell these fish. Second, king and Spanish mackerel harvested during state-permitted tournaments may be donated to a dealer who has a state or Federal dealer permit and then sold by that dealer, if the proceeds are donated to charity. Dealers receiving such fish must report them as tournament-caught fish.

For the Atlantic region, this final rule prohibits the sale of all bag-limit-caught king and Spanish mackerel, except those harvested during a state-permitted tournament. As in the Gulf, king and Spanish mackerel harvested during state-permitted tournaments may be donated to a dealer who has a state or Federal permit and then sold by that dealer, if the proceeds are donated to charity. Dealers receiving such fish must report them as tournament-caught fish.

Reducing the sale of fish caught under the bag limit in the Gulf and Atlantic regions should improve the accuracy of data by reducing "double counting," i.e., harvest from a single trip

that is counted towards both the commercial quota and recreational allocation. This practice occurs when the same catches are reported through recreational surveys and commercial trip tickets and logbooks. In addition to reducing the accuracy of the landings data, double counting can also lead to early closures in the commercial sector.

This final rule also removes the income qualification requirements for king and Spanish mackerel commercial vessel permits. This action would not affect the number of king mackerel permits issued, which are limited access, but could increase the number of Spanish mackerel permits issued, which are open access. Eliminating the income qualification requirements would afford more flexibility to fishermen by allowing them to earn a larger portion of income from non-fishing occupations.

Comments and Responses

NMFS received a total of 14 public comments on Amendment 20A and the proposed rule, including 10 comments from individuals and 3 from fishing organizations. One Federal agency stated it had no comment on the proposed rule. Comments related to the actions in Amendment 20A and the proposed rule as well as NMFS' respective responses are summarized below.

Sales Restriction

Comment 1: One commenter understood the wording of Action 1 to mean that mackerel could not be sold if a fisherman caught less than the bag limit, but could be sold if he caught more than the bag limit.

Response: The phrase "under the bag limit" refers to fishing under the regulations that limit fishermen to the bag limit, if they do not have a Federal commercial permit. Therefore the sale restriction is on fishermen without a Federal commercial permit who fish legally under the bag-limit regulations. These fishermen include recreational fishermen as well as commercial fishermen without Federal permits. As explained above, except under limited circumstances, each person can catch up to the bag limit (2 fish for king mackerel, 15 fish for Spanish mackerel), but cannot sell those fish. Fishermen who have a Federal commercial permit are not restricted to the bag limit if they are on a commercial trip, but are restricted by the commercial trip limit for their specific area, and can sell their catch.

Comment 2: NMFS should not implement restrictions on selling king and Spanish mackerel. Selling the catch, whether it is caught while on a commercial fishing trip or with a for-hire charter onboard, is one of many sources of income that charter fishermen depend on. One commenter stated he was able

to save to buy a Federal commercial mackerel permit by selling his bag-limit catch. Bag-limit sales are keeping a lot of smaller fishermen in business and supporting their families. Also, recreational fishing does not necessarily mean the fisherman is merely fishing for sport. It could mean he does not have the income (or equipment) to afford a Federal commercial permit. The commercial fisherman should not be punished just because he does not have a Federal permit.

Response: NMFS disagrees that restrictions on the sale of bag-limit-caught king and Spanish mackerel should not be implemented. NMFS understands that some fishermen without commercial permits currently sell mackerel and will no longer be able to do so. However, the Councils are concerned that landings sold from recreational trips and non-federally permitted commercial trips contribute to the commercial quota and can lead to early closures in the commercial sector. The Councils are also concerned about the double counting of landings that can occur when bag-limit-caught mackerel are sold and those landings are counted towards both the recreational and commercial quotas. Thus, the Councils determined that, except in limited circumstances, sales of bag-limit-caught mackerel should be prohibited. NMFS agrees with the Councils' decision and notes that this prohibition is generally consistent with

regulations in other fisheries, such as Gulf reef fish and South Atlantic snapper-grouper, which require a Federal commercial permit to sell the fish.

Comment 3: NMFS should accept the Gulf Council's proposal on bag-limit fish sales that allows sales by vessels that have both the Federal commercial and for-hire permits. In addition, they should reject the South Atlantic Council's proposal to prohibit such sales and adopt the Gulf Council's rule for both the Gulf and Atlantic mackerel fisheries. For over 25 years, the South Atlantic Council's Mackerel Advisory Panel has consistently recommended allowing these sales. The South Atlantic Council's SSC recommended that "the Council should continue to allow bag-limit sales of recreationally caught fish. From a socio-economic perspective it is better to utilize other methods to mitigate negative effects of bag-limit recreational sales on the commercial sector." The South Atlantic Council's Law Enforcement Advisory Panel (LEAP) stated "Overall the LEAP emphasizes the importance of consistency and simplicity whenever possible. Coastal migratory pelagics management is complicated and the less complex options are best for enforcement officers and the public." Also they expressed the desire to maintain consistent regulations between the South Atlantic and the Gulf to facilitate enforcement efforts.

Response: NMFS disagrees that identical regulations related to bag-limit sales must be implemented for both the Gulf and South Atlantic jurisdictions. NMFS recognizes that different regulations in the Gulf and South Atlantic are not ideal. However, the two Councils are independent and although the FMP is a joint plan, the Councils generally defer to each other regarding decisions about management measures within their respective jurisdictions. The Gulf Council chose to continue to allow dually permitted vessels to sell king and Spanish mackerel to preserve a historical practice that is important to some Gulf charter vessel and headboat businesses. The sale of king mackerel by dually permitted vessels in the Gulf has been recognized and accounted for since 1985, when 2 percent of the recreational allocation was transferred to the commercial sector (see response to Comment 5). The sale of Spanish mackerel by dually permitted vessels in the Gulf does not have the same impact on the commercial sector because no sector allocations exist for this stock. The South Atlantic Council considered the advice from its advisory groups, but determined that the continued sale of bag-limit-caught mackerel could negatively impact the commercial sector. In the South Atlantic, both king and Spanish mackerel commercial landings have been close to or exceeded the commercial quota in recent years. Continuing sales

of bag-limit-caught fish in the Atlantic, especially those caught during for-hire fishing trips, could lead to early closures in the commercial sector that reduce annual landings and associated revenues of federally permitted commercial fishing businesses.

Comment 4: One commenter stated that for-hire vessels in Florida that have both the Federal commercial and charter vessel/headboat permits will be able to sell bag-limit-caught mackerel during some parts of the year but not during other parts of the year, because the Gulf migratory group boundary shifts.

Response: The commenter misunderstands the regulations that are included in this final rule. As stated by the commenter, the king mackerel migratory group boundary changes during the year. From November 1 through March 31, the southern subzone, which is part of the Gulf migratory group Florida west coast subzone, extends around the Florida Keys and the Florida East Coast Subzone is created on the east coast of Florida. The regulations will prohibit the sale of bag-limit-caught mackerel except when harvested on board a dually permitted vessel that is operating in the Gulf. Thus, whether a dually permitted vessel can sell bag-limit-caught mackerel does not depend on where the migratory group boundary is during the fishing year but on

whether the fish are caught in the Gulf. Fishermen on the south side of the Florida Keys and on the east coast of Florida are not operating in the Gulf. Therefore, they cannot sell mackerel caught under the bag limits at any time, even if their vessel is dually permitted.

Comment 5: The issue of bag-limit sales counting towards the commercial quota should have been settled years ago when 2 percent of the recreational total allowable catch (TAC) was transferred to the commercial TAC.

Response: NMFS agrees that the concern about recreational harvest counting towards the commercial quota was addressed in the Gulf in 1985 when Amendment 1 to the FMP set allocations for Gulf migratory group king mackerel and transferred 2 percent of the recreational allocation to the commercial sector. However, a similar transfer did not occur when allocations were set for the Atlantic migratory group.

Latent Permits

Comment 6: Some fishermen are finding it difficult to catch mackerel in the subzone they fish before that subzone closes. The northern subzone closes much too soon due to the influx of East coast boats coming into the Gulf. This closure excludes the local fishermen who rely on the mackerel run every year. As a result, these fishermen's permits become "latent"

(no or low landings) through no fault of their own. Therefore, latent permits should not be removed.

Response: The Councils chose to take no action regarding removal of latent permits because of these issues, and NMFS agrees with this decision.

Income Requirement

Comment 7: Several commenters agreed with eliminating the income qualification requirement. Those commenters stated that the cost associated with purchasing any limited access Federal permit is daunting, and income restrictions need to be lifted to allow fishermen to obtain a commercial permit for king mackerel and other species. One commenter disagreed with eliminating the income qualification requirement. That commenter was concerned that charter vessel and headboat operators may switch to full-time commercial mackerel fishing that is more profitable than sport fishing, especially at certain times of the year, and that this increase in commercial harvest might cause overfishing of the resource.

Response: NMFS agrees with the Councils' decision to eliminate the income qualification requirement. The Councils determined, and NMFS agrees, that the income qualification requirement did not serve the function for which it was intended (to further restrict access to Federal commercial vessel permits

for king mackerel to those who could demonstrate a financial reliance on commercial or charter fishing) because the requirement was difficult to enforce. No other Federal permit in the Southeast Region has an income qualification requirement, except the commercial spiny lobster permit, which mirrors the State of Florida's requirements. Eliminating the income qualification requirement will afford Spanish and king mackerel permit applicants more flexibility in determining the income-generating activities they might pursue. Commercial permit applicants can increase their participation in activities not related to commercial or for-hire fishing or limit their involvement in commercial or for-hire fishing without fearing the loss of their permit due to the income qualification requirement. However, NMFS does not agree that keeping the income qualification requirement will limit the ability of charter vessel and headboat operators to obtain a commercial permit, because income from charter fishing was allowed to be used to meet the income requirement.

Changes from Proposed Rule

A final rule published on April 9, 2014 (79 FR 19490), to implement a Gulf and South Atlantic dealer permit, which will be required for king and Spanish mackerel dealers, is effective August 7, 2014. That final rule includes a restriction that a

federally permitted dealer must first receive fish only from a federally permitted vessel. This provision, which will be effective on August 7, 2014, is codified at § 622.386(c).

Amendment 20A and this final rule allow a federally permitted dealer to receive tournament-caught fish and then sell those fish if the proceeds are donated to a charity. As explained in the proposed rule to implement Amendment 20A, because the final rule for the Generic Dealer Amendment says that a federally permitted dealer must first receive fish only from a federally permitted vessel, an exception to that restriction must be added to § 622.386(e) in this final rule to allow dealers to first receive tournament-caught fish. Section 622.386(e) will be effective on August 7, 2014, the same day the final rule implementing the Generic Dealer Amendment is effective.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is consistent with Amendment 20A, the FMP, the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

In compliance with section 604 of the Regulatory Flexibility Act (RFA), NMFS prepared a Final Regulatory

Flexibility Analysis (FRFA) for this final rule. The FRFA analyzes the anticipated economic impacts of the final actions and any significant economic impacts on small entities. The FRFA is below.

The description of the action, why it is being considered and the legal basis for the rule are contained in the preamble of the proposed rule and in the preamble of this final rule. Section 604(a)(2) of the Regulatory Flexibility Act requires NMFS to summarize significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis (IRFA), summarize the assessment of such issues, and state any changes made as a result of the comments. None of the public comments specifically concerned the IRFA; however, NMFS received several comments regarding the regional differences in businesses directly affected by the proposed rule and economic impacts of the proposed rule on businesses.

Several comments supported the elimination of the minimum fishing income requirement to obtain a Federal commercial Spanish mackerel or king mackerel permit, while one did not. The removal of the income requirement will economically benefit all small businesses that currently own or operate fishing vessels with a Spanish or king mackerel permit by reducing their annual costs of documenting that they satisfy an income

requirement. The elimination of the income requirement will also economically benefit small businesses that presently do not own or operate fishing vessels with one of these permits because they do not satisfy the income requirement. Additional responses are included in the Comments and Responses section (Comment 7) above.

Several comments questioned the necessity of and reasoning for the prohibition on sales of king mackerel harvested in Federal waters by commercial vessels without a Federal commercial king mackerel permit. These comments and NMFS' responses are included in the Comments and Responses section (Comment 2) above.

Several comments questioned the reason for prohibiting sales of king mackerel harvested in the Atlantic EEZ by vessels with a Federal commercial king mackerel permit during a for-hire fishing trip, while allowing sales of king mackerel harvested in the Gulf EEZ by vessels with a Federal commercial king mackerel permit during a for-hire fishing trip. This action is expected to eliminate double-counting of landings of king mackerel caught during for-hire fishing trips in the Atlantic EEZ, but will not eliminate double-counting of landings of king mackerel caught during for-hire fishing trips in the Gulf EEZ. In doing so, businesses that own and operate dually permitted for-hire

fishing vessels in the Atlantic EEZ will incur adverse economic impacts that businesses that own and operate dually permitted for-hire fishing vessels in the Gulf EEZ will not incur. However, as noted in the response to Comment 3, the sale of king mackerel by dually permitted vessels in the Gulf has been recognized and accounted for since 1985, when 2 percent of the recreational allocation was transferred to the commercial sector. There was no similar transfer of allocation in the South Atlantic.

Commercial fishing vessels that land bag-limit quantities of Spanish or king mackerel are expected to harvest these species as incidental catch. In some areas, such as South Carolina, commercial landings of bag-limit quantities of Spanish and king mackerel are primarily the incidental catch of shrimp trawling vessels. Additional comments and NMFS responses are included in the Comments and Responses section (Comment 3) above.

No changes were made to the final rule based on any public comments.

It is estimated that up to 464 commercial shrimp vessels that operate in the South Atlantic, and up to 1,362 commercial shrimp vessels that operate in the Gulf, will be directly affected by the prohibition on Spanish and king mackerel sales

without the respective Federal commercial permits. According to the Small Business Administration (SBA) size standards, a business in the shellfish fishing industry (NAICS 114112, shellfish fishing) is considered a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$5 million. It is estimated that 326 small commercial shellfish fishing businesses own and operate the directly affected shrimp vessels in the South Atlantic, and up to 903 small businesses own and operate the directly affected shrimp vessels in the Gulf.

Purse seine fishing vessels are also expected to have incidental catch of coastal migratory pelagics, especially king mackerel. The SBA annual receipts threshold for a business in the commercial finfish fishing industry (NAICS 114111, finfish fishing) is \$19 million. It is unknown how many small businesses own and operate finfish fishing vessels that will be affected by the prohibition on bag-limit sales.

The ban on the sale of king and Spanish mackerel harvested during for-hire fishing trips in the Atlantic EEZ will affect 443 for-hire fishing vessels. The SBA annual receipts threshold for a for-hire fishing business is \$7 million (NAICS 487210, fishing boat charter operation). It is expected that all of the

for-hire fishing businesses that own and operate the above 443 vessels in the Atlantic EEZ are small.

Businesses that purchase king and Spanish mackerel from commercial vessels without the respective Federal commercial permits, and from South Atlantic for-hire vessels with the respective Federal commercial permits, would be indirectly affected by the ban on bag-limit sales. These businesses operate in the fish and seafood merchant wholesales industry (NAICS 424460), which has an SBA size standard of 100 employees, and the fish and seafood marketing industry (NAICS 445220), which has an SBA size standard of \$7 million in annual receipts. Presently, a Federal dealer permit is not required to purchase king and Spanish mackerel harvested and landed by fishing vessels operating in the EEZ; however, that is changing on August 7, 2014, with the implementation of the generic Gulf and South Atlantic dealer permit. According to the 2011 County Business Patterns summary data, there were 573 seafood wholesale establishments in the Gulf and South Atlantic States and 449 in the Mid-Atlantic States. It is unknown how many of these establishments purchase king or Spanish mackerel that are harvested in Federal waters. Therefore, it is estimated that up to 1,022 seafood dealers could be indirectly affected by the prohibition on sales of king and Spanish mackerel harvested by

commercial fishing vessels without Federal commercial king and Spanish permits and for-hire fishing vessels during for-hire fishing trips in Federal waters of the Atlantic.

The elimination of the income requirement will affect all businesses that presently own and operate fishing vessels with king mackerel and Spanish mackerel Federal commercial permits. There are 1,048 fishing vessels with both a king mackerel permit and Spanish mackerel permit. There are another 363 vessels with just a king mackerel permit and 687 vessels with just a Spanish mackerel permit. Hence, the elimination of the income requirement will directly affect the businesses that own and operate a combined 2,098 vessels that commercially harvest king and Spanish mackerel in Federal waters. Businesses that own and operate commercial fishing vessels with king and Spanish mackerel permits operate in the shellfish fishing, finfish fishing and for-hire fishing industries. It is presumed that most to all of those businesses are small. The elimination of the income requirement will also affect an unknown number of small finfish, shellfish and for-hire fishing businesses that presently are unable to get a Spanish or king mackerel permit because they do not meet the income requirement.

Currently, commercial fishing vessels without a Federal king or Spanish mackerel permit can harvest and sell no more

than quantities up to the recreational bag limits for the species. The bag limit for Spanish mackerel is 15 fish in the Atlantic and Gulf EEZ. The bag limit for king mackerel is 2 fish in the Gulf EEZ and the Atlantic EEZ off Florida, and 3 fish in the Atlantic EEZ north of Florida. The maximum ex-vessel revenue per trip from bag-limit sales of king mackerel is estimated to range from \$99 to \$149, depending on where harvested. Similarly, the maximum ex-vessel revenue per trip from bag-limit sales of Spanish mackerel is estimated to be \$124. Small businesses that own and operate commercial fishing vessels in the Gulf and Atlantic EEZ without king and Spanish mackerel Federal permits could lose landings with a value up to \$273 per trip; however, they could reduce that loss by \$124 per trip by acquiring a Federal commercial Spanish mackerel permit at an annual cost of \$25, plus the time to complete and submit the application form. Because a Federal commercial king mackerel permit is a limited access permit, a small commercial fishing business without that permit would have to purchase or otherwise acquire one from an existing permit holder, which greatly reduces a small business's ability to mitigate for losses of ex-vessel revenue from king mackerel landings.

Small businesses that own and operate for-hire fishing vessels in the Atlantic EEZ, on average, will lose landings with

an ex-vessel value up to \$273 per trip, while small businesses that own and operate for-hire fishing vessels that also have a Federal commercial vessel permit in the Gulf EEZ will experience no losses. The indirect losses to small businesses in the seafood wholesale industry in the form of decreases in net revenues from purchases and sales of king and Spanish mackerel are unknown.

The action to eliminate the income requirement will generate an economic benefit to current and future king and Spanish mackerel permit holders who will not have to incur the cost of providing documentation that they satisfy an income requirement. It will also economically benefit small fishing businesses that currently cannot obtain a commercial Spanish or king mackerel permit because they do not satisfy the income requirement.

As discussed above, only the action to prohibit bag-limit sales of king and Spanish mackerel is expected to result in direct adverse economic effects on affected small entities and alternatives to minimize these adverse effects were considered. An alternative to allow sales of king and Spanish mackerel caught by anglers aboard for-hire fishing vessels with Federal commercial king and Spanish mackerel permits in the South Atlantic Council's jurisdiction was considered, but rejected,

although it would have a smaller adverse economic impact on small businesses in the for-hire fishing industry than the preferred alternative. This rejected alternative would not reduce double-counting of landings, and therefore would not meet the Council's objective of improving landings data. Also, this rejected alternative would not address concerns about the impacts of recreational landings being counted against the commercial quota.

The status quo alternative that allows sales of king and Spanish mackerel harvested by commercial vessels without Federal commercial king and Spanish mackerel permits was considered, but rejected, because the South Atlantic Council chose to prohibit all sales of king and Spanish mackerel harvested by vessels without the above Federal commercial permits. The status quo alternative, however, would have a smaller adverse economic impact on small businesses in the finfish fishing industry than the preferred alternative.

An alternative to prohibit sales of king and Spanish mackerel by anglers aboard for-hire fishing vessels with Federal commercial king and Spanish mackerel permits in the Gulf Council's jurisdiction was also considered, but rejected because it would have a larger adverse economic impact on small businesses in the for-hire fishing industry than the preferred

alternative. Also, because 2 percent of recreational allocation was previously transferred to the commercial sector, concerns about the impacts of recreational harvest counting against the commercial quota are not as prevalent in the Gulf.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all CMP vessel permit holders in the Gulf and Atlantic region.

This final rule contains collection-of-information requirements subject to the PRA, which have been approved by OMB under control number 0648-0205. NMFS estimates the removal of the income qualification requirements for commercial king and Spanish mackerel permit holders will result in a net decrease in the time to complete the Federal Permit Application (for all applicants). In addition, the current burden estimate of 40 minutes per applicant to complete the application form would decrease to 30 minutes per applicant, because the application

instructions have been simplified and reorganized so that there are half as many pages of instructions to read when filling out the application. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

Atlantic, Coastal Migratory Pelagic Resources, Fisheries, Fishing, Gulf, King mackerel, Spanish mackerel.

Dated: June 10, 2014.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.370, paragraphs (a)(1) and (3) are revised to read as follows:

§ 622.370 Permits.

(a) * * *

(1) King mackerel. For a person aboard a vessel to be eligible for exemption from the bag limits, to fish under a quota, or to sell king mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, a commercial vessel permit for king mackerel must have been issued to the vessel and must be on board. See § 622.371 regarding a limited access system applicable to commercial vessel permits for king mackerel and transfers of permits under the limited access system.

* * * * *

(3) Spanish mackerel. For a person aboard a vessel to be

eligible for exemption from the bag limits, to fish under a quota, or to sell Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, a commercial vessel permit for Spanish mackerel must have been issued to the vessel and must be on board.

* * * * *

§ 622.371 [Amended]

3. In § 622.371, remove paragraphs (c), (d), and (e), and redesignate paragraph (f) as paragraph (c).

4. In § 622.386, paragraph (a) is revised and paragraphs (d) and (e) are added to read as follows:

§ 622.386 Restrictions on sale/purchase.

* * * * *

(a) King and Spanish mackerel. A king or Spanish mackerel harvested or possessed in the EEZ on board a vessel that does not have a valid commercial vessel permit for king mackerel, as required under § 622.370(a)(1), or a valid commercial vessel permit for Spanish mackerel, as required under § 622.370(a)(3), or a king or Spanish mackerel harvested in the EEZ or possessed under the bag limits specified in § 622.382, may not be sold or purchased, except when harvested under the bag limits on board a vessel operating in the Gulf as a charter vessel or headboat and that vessel has both a valid Federal charter vessel/headboat

permit for Gulf coastal migratory pelagic fish, as required under § 622.370(b)(1), and a valid commercial vessel permit for king mackerel or Spanish mackerel, as required under § 622.370(a)(1), as appropriate to the species harvested or possessed.

* * * * *

(d) Cut-off (damaged) king or Spanish mackerel. A person may not sell or purchase a cut-off (damaged) king or Spanish mackerel that does not comply with the minimum size limits specified in § 622.380(b) or (c), respectively, or that is in excess of the trip limits specified in § 622.385(a) or (b), respectively.

(e) State-permitted tournaments. King or Spanish mackerel harvested in a state-permitted tournament in the South Atlantic, Mid-Atlantic, or the Gulf may not be sold for profit but may be donated to a state dealer or Federal dealer. Dealers accepting these tournament-caught king or Spanish mackerel must be permitted and must comply with all transfer and reporting requirements. Federally permitted dealers who accept donated king or Spanish mackerel under this section are exempt from the restrictions in paragraph (c) of this section, and can first receive these fish from non-federally permitted vessels. Dealers must donate the monetary value (sale price or cash

equivalent of value received for the landings) from the sale of tournament-caught fish to a charitable organization, as determined by the state. The monetary value received from the sale of tournament-caught fish may not be used to pay for tournament expenses. In addition, the fish must be handled and iced according to the Hazard Analysis Critical Control Point (HACCP) standards, and dealers must report tournament caught king and Spanish mackerel as "tournament catch" and comply with all Federal and state reporting requirements.

[FR Doc. 2014-14016 Filed 06/13/2014 at 8:45 am; Publication Date: 06/16/2014]